
SENATE BILL 6292

State of Washington

54th Legislature

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By Senators Prentice, Sellar, Fraser and Quigley; by request of Insurance Commissioner

Read first time 01/10/96. Referred to Committee on Financial Institutions & Housing.

1 AN ACT Relating to member insurers and the persons to whom coverage
2 is available under the Washington life and disability insurance
3 guaranty association; and amending RCW 48.32A.020, 48.32A.030, and
4 48.32A.040.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 48.32A.020 and 1994 c 149 s 2 are each amended to read
7 as follows:

8 This chapter shall apply as follows to life insurance policies,
9 disability insurance policies, and annuity contracts of impaired or
10 insolvent insurers, other than separate account variable policies and
11 contracts authorized by chapter 48.18A RCW:

12 ~~(1) ((To all such policies and contracts of a domestic, foreign, or~~
13 ~~alien insurer authorized to transact such insurance or annuity business~~
14 ~~in this state at the time such policies or contracts were issued or at~~
15 ~~the time the insurer becomes an impaired or insolvent insurer, and of~~
16 ~~which the policy or contract owner, insured, annuitant, beneficiary, or~~
17 ~~payee is a resident.~~

18 (2)) To persons, regardless of where they reside, except for
19 nonresident certificate holders under group policies or contracts, who

1 are the beneficiaries, assignees, or payees of the persons covered
2 under subsection (2) of this section.

3 (2) To persons who are owners of or certificate holders under such
4 policies or contracts; or, in the case of unallocated annuity
5 contracts, to the persons who are the contract holders, and who:

6 (a) Are residents; or

7 (b) Are not residents, but only under all of the following
8 conditions:

9 (i) The insurers that issued the policies or contracts are
10 domiciled in this state;

11 (ii) The insurers never held a certificate of authority in the
12 states in which the persons reside;

13 (iii) The states have associations similar to the association
14 created by this chapter; and

15 (iv) These persons are not eligible for coverage by these
16 associations. To policies and contracts only of impaired or insolvent
17 insurers.

18 ~~((+3+))~~ (4) The obligations of the association created under this
19 chapter shall apply only as to contractual obligations of the insurer
20 under insurance policies and annuity contracts, and shall be no greater
21 than such obligations of the impaired or insolvent insurer. However,
22 the liability of the association shall in no event exceed:

23 (a) With respect to any one life, regardless of the number of
24 policies or contracts:

25 (i) Five hundred thousand dollars in life insurance death benefits,
26 including any net cash surrender and net cash withdrawal values for
27 life insurance;

28 (ii) Five hundred thousand dollars in disability insurance
29 benefits, including any net cash surrender and net cash withdrawal
30 values; or

31 (iii) Five hundred thousand dollars in the present value of
32 allocated annuity benefits and annuities established under section
33 403(b) of the United States internal revenue code.

34 The association shall not be liable to expend more than five
35 hundred thousand dollars in the aggregate with respect to any one
36 individual under this subsection; or

37 (b) With respect to any one contract owner covered by any
38 unallocated annuity contract, including governmental retirement plans
39 established under section 401 or 457 of the United States internal

1 revenue code, five million dollars in benefits, irrespective of the
2 number of such contracts held by that contract owner.

3 (~~(4)~~) (5) This chapter shall not apply to:

4 (a) Fraternal benefit societies;

5 (b) Health care service contractors;

6 (c) Insurance or liability assumed by the impaired or insolvent
7 insurer under a contract of reinsurance other than bulk reinsurance;

8 (d) Any unallocated annuity contract issued to an employee benefit
9 plan protected under the federal pension benefit guaranty corporation;
10 or

11 (e) Any portion of any unallocated annuity contract which is not
12 issued to or in connection with a specific employee, union, association
13 of natural persons benefit plan, or a government lottery.

14 **Sec. 2.** RCW 48.32A.030 and 1994 c 149 s 3 are each amended to read
15 as follows:

16 Within the meaning of this chapter:

17 (1) "Account" means any one of the three guaranty fund accounts
18 created under RCW 48.32A.080(1).

19 (2) "Assessment" means a charge made upon an insurer by the board
20 under this chapter for payment into a guaranty fund. The charge
21 constitutes a legal liability of the insurer so assessed.

22 (3) "Association" means "the Washington life and disability
23 insurance guaranty association."

24 (4) "Board" means the board of directors of the Washington life and
25 disability insurance guaranty association.

26 (5) "Certificate" means a certificate of contribution provided for
27 in RCW 48.32A.090.

28 (6) "Commissioner" means the insurance commissioner of this state.

29 (7) "Contributor" means an insurer that has paid an assessment.

30 (8) "Fund" means a guaranty fund provided for in RCW 48.32A.080.

31 (9) "Impaired insurer" means an insurer that, after June 9, 1994,
32 is not an insolvent insurer, and is placed under an order of
33 rehabilitation or conservation, or a substantially similar order, by a
34 court of competent jurisdiction.

35 (10) "Insolvent insurer" means an insurer with respect to which an
36 order of liquidation has been entered by a court of competent
37 jurisdiction.

1 (11) "Member insurer" means any insurer that holds a certificate of
2 authority to transact life insurance, disability insurance, or annuity
3 insurance business in this state, and includes any insurer whose
4 license or certificate of authority in this state has been suspended,
5 revoked, not renewed, or voluntarily withdrawn.

6 (12) "Policies" means life or disability insurance policies;
7 "contracts" means annuity contracts and contracts supplemental to such
8 insurance policies and annuity contracts.

9 (~~(12)~~) (13) "Resident" means a person who resides and is
10 domiciled in this state at the time an insurer is determined to be an
11 impaired or insolvent insurer and to whom a contractual obligation is
12 owed. A person may be resident of only one state, which in the case of
13 a person other than an individual is its principal place of business.

14 (~~(13)~~) (14) "Unallocated annuity contract" means any annuity
15 contract or group annuity certificate which is not issued to and owned
16 by an individual, except to the extent of any annuity benefits
17 guaranteed to an individual by an insurer under such contract or
18 certificate.

19 **Sec. 3.** RCW 48.32A.040 and 1971 ex.s. c 259 s 4 are each amended
20 to read as follows:

21 (1) There is hereby created a nonprofit unincorporated legal entity
22 to be known as the Washington life and disability insurance guaranty
23 association, which shall be composed of the commissioner, ex officio,
24 and of each member insurer authorized to transact life insurance, or
25 disability insurance, or annuity business in this state. All such
26 insurers shall be and remain members of the association during the
27 continuance of, and as a condition to, their authority to transact such
28 business in this state.

29 (2) The association shall be managed by a board of directors
30 composed of the commissioner, ex officio, and of not less than five nor
31 more than nine member insurers, each of whom shall initially be
32 appointed by the commissioner to serve for terms of one, two, or three
33 years. After the initial board is appointed, the board shall provide
34 in its bylaws for selection of board members by member insurers subject
35 to the commissioner's approval; members so selected shall serve for
36 three year terms, acceding to office upon expiration of the terms of
37 the respective initial board members; and board members shall
38 thereafter serve for three year terms and shall continue in office

1 until their respective successors be selected, approved, and have
2 qualified. At least a majority of the members of the board shall be
3 domestic insurers. In case of a vacancy for any reason on the initial
4 board appointed, the commissioner shall appoint a member insurer to
5 fill the unexpired term; vacancies on the board thereafter shall be
6 filled in the same manner as in the original selection and approval.
7 Board members may be reimbursed for reasonable and necessary expenses
8 incurred in connection with the performance of their duties.

9 (3) A director, officer, employee, agent or other representative of
10 the association or of a member insurer, or the commissioner or his
11 representative shall in no event be individually liable to any person,
12 including the association, for any act or omission to act, or for any
13 liability incurred or assumed, on behalf of the association or by
14 virtue thereof, any such liability so incurred or assumed to be
15 collectible only out of a fund; nor shall any insurer member of the
16 association be subject to any liability except for assessment as in
17 this chapter provided.

18 (4) The association shall be under the immediate supervision of the
19 commissioner and shall be subject to such provisions of the insurance
20 code of the state of Washington as may be applicable and not
21 inconsistent with the provisions of this chapter.

22 (5) The board may, upon majority vote, make recommendations to the
23 commissioner for the detection and prevention of insurer insolvencies.

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